

**Alexandria Township
Land Use Board
Reorganization & Regular Meeting Minutes January 20, 2022**

Phil Rochelle called the reorganization meeting of the Alexandria Township Land Use Board to Order at 7:09 pm. The meeting was duly noticed.

SWEARING IN OF MEMBERS

The following Land Use Board Members were sworn in by Attorney Kaczynski:
R. Christian Pfefferle, Jim Kiernan, Michael Giannone, Jim Pauch, Dick Kimsey, Gretchen Savacool.

MEMBERS PRESENT: Rochelle, Freedman, Pauch, Canavan, Tucker, Deputy Mayor Pfefferle, Committeeman Kiernan, Giannone, Kimsey, Hahola and Savacool.

MEMBERS ABSENT: Papazian

PROFESSIONALS PRESENT: Kara Kaczynski – LUB Attorney, David Banisch – LUB Planner, Tom Decker – LUB Engineer.

OTHERS PRESENT: Residents of Alexandria Township.

Motion to Nominate Chairman

A motion was made by **Pauch** and seconded by **Kimsey** to nominate **Rochelle** to serve as chairman.

Vote: Ayes: Rochelle, Pauch, Freedman, Canavan, Tucker, Committeeman Kiernan, Deputy Mayor Pfefferle, Giannone, Kimsey. No Nays: Motion passed.

Motion to Nominate Vice Chairman

A motion was made by **Chair Rochelle** and seconded by **Pauch** to nominate **Papazian** to serve as vice chairman. **Vote: Ayes: Chairman Rochelle, Pauch, Freedman, Canavan, Tucker, Committeeman Kiernan, Deputy Mayor Pfefferle, Giannone, Kimsey. No Nays: Motion passed.**

Motion to Appoint Board Professionals

**2022-01
TOWNSHIP OF ALEXANDRIA
LAND USE BOARD
PROFESSIONAL SERVICES RESOLUTION**

WHEREAS, there exists a need for an attorney, planner, and an engineer to advise the Alexandria Township Land Use Board during the year 2022; and,

WHEREAS, funds are available in the 2022 municipal budget for the Alexandria Township Land Use Board expenses; and,

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. requires that the resolution authorizing the award of contracts for “professional services” with public bidding and the contract itself must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of the Township of Alexandria, in the County of Hunterdon and State of New Jersey, the following services appointments be made as follows:

1. Kara Kaczynski of the Law Firm of McNally, Yaros, Kaczynski & Lime, LLC is hereby retained as the Alexandria Township Land Use Board Attorney.
2. Thomas R. Decker of Van Cleef Engineering is hereby retained as the Alexandria Township Land Use Board engineer.
3. David Banisch of the firm Banisch Associates, Inc., is hereby retained as the Alexandria Township Land Use Board planner.

That these contracts are awarded under the fair and open provision of the Local Public Contract Law. Notice of this action shall be printed once in the Hunterdon County Democrat.

A motion was made by **Chair Rochelle** and seconded by **Deputy Mayor Pfefferle** to appoint **Kara Kaczynski of McNally, Yaros, Kaczynski, and Lime** to serve as Board Attorney. **Vote: Ayes: Chairman Rochelle, Pauch, Freedman, Canavan, Tucker, Committeeman Kiernan, Deputy Mayor Pfefferle, Giannone, Kimsey. No Nays: Motion passed.**

Motion to Appoint Board Secretary

RESOLUTION 2022-02

BOARD SECRETARY POSITION

BE IT RESOLVED by the Land Use Board of the Township of Alexandria that the Board is authorized and directed to appoint Leigh Gronau to the Board Secretary position for the year 2022.

A motion was made by **Freedman** and seconded by **Deputy Mayor Pfefferle** to appoint **Leigh Gronau** to serve as Secretary. **Vote: Ayes: Chairman Rochelle, Pauch, Freedman, Canavan, Tucker, Committeeman Kiernan, Deputy Mayor Pfefferle, Giannone, Kimsey. No Nays: Motion passed.**

Motion to designate Official/Back-up Newspaper and set meeting, time place, and dates

RESOLUTION PB-2022-03

OPEN PUBLIC MEETING DATES AND DESIGNATION OF OFFICIAL NEWSPAPERS

WHEREAS the Senate and General Assembly of the State of New Jersey have enacted an Act concerning meetings of certain public bodies known as "**The Open Public Meetings' Act**" approved October 21, 1975, as Chapter 231, P.L. 1975 effective 90 days after enactment, to wit, on or about January 19, 1976; and

WHEREAS it is deemed appropriate that the **Land Use Board** of the Township of Alexandria shall resolve in all respects to implement the provisions thereof, and in particular to adopt resolutions relating to the posting and distribution of a yearly schedule and any revised schedule of any regular meetings of **Land Use Board** as well as giving of advance notice of at least 48 hours of any regular, special or re-scheduled meeting thereof, designating at least two newspapers to receive such notices, and fixing fees to cover the costs of mailing to any person requesting copies of any regular meeting schedules of revision and any "48 Hours" advance written notice of any regular or re-scheduled meeting of the Planning Board

NOW THEREFORE BE IT RESOLVED by the **Land Use Board** of the Township of Alexandria as follows:

- 1.** The regular meeting of the Land Use Board of the Township of Alexandria shall be held on the third Thursday of each month during the calendar year, **2022**, except if on a holiday which then would be rescheduled for another night. The meetings shall be held at the Township Municipal Building located at 202 Little York - Mt. Pleasant Road, Milford, NJ 08848 at 7:30 P.M. prevailing time, unless otherwise determined by the Land Use Board, published and posted in the Township Municipal Building and on the Township website.
- 2.** Notice of such annual schedule or regular meeting of the Land Use Board or any revised schedule thereof, as well as advance written notices of any regular, special or re-scheduled meetings of the Land Use Board shall be prominently posted in the Township Municipal Building and shall be timely forwarded to the Hunterdon County Democrat or Star Ledger, both of which are newspapers generally circulating within the Township of Alexandria, and shall be filed with the Township Clerk.
- 3.** The Hunterdon County Democrat is hereby designated as the official newspaper of the Land Use Board, with the Star Ledger as an alternate.
- 4.** Formal action of the Land Use Board is contemplated at the regular meetings.

2022 MEETING DATES

The list annexed at Exhibit A hereto is hereby established as the regular schedule of meetings of the Land Use Board for calendar year 2022 at 7:30 pm prevailing time:

EXHIBIT A

2022

LAND USE BOARD MEETING DATES

January 20, 2022
February 17, 2022
March 17, 2022
April 21, 2022

May 19, 2022
June 16, 2022
July 21, 2022
August 18, 2022
September 15, 2022
October 20, 2022
November 17, 2022
December 15, 2022
Reorg - January 19, 2023

A motion was made by **Deputy Mayor Pfefferle** and seconded by **Kimsey** to approve the Resolution for the official newspaper, alternate paper, and the meeting dates and times. **Vote: Ayes: Chair Rochelle, Pauch, Freedman, Canavan, Tucker, Committeeman Kiernan, Deputy Mayor Pfefferle, Giannone, Kimsey. No Nays: Motion passed.**

Comments from the Public

There were no comments from the public.

Chair Rochelle moved into the Combined Meeting of the Alexandria Township Land Use Board and the Alexandria Township Committee.

Minutes Approval

A motion to approve the December 16, 2021 regular meeting minutes of the Land Use Board was made by **Canavan** and seconded by **Kimsey**. **Vote: Ayes: Chair Rochelle, Pauch, Freedman, Canavan, Tucker, Deputy Mayor Pfefferle, Giannone, Kimsey. Abstain: Committeeman Kiernan. No Nays. Motion Carried.**

New and Pending Matters

Cannabis – Land Use Ordinance – Discussion Continuation

Banisch started the discussion referencing his memo dated January 17, 2022. Parts of this memorandum follow: This memorandum provides background information and draft ordinance amendments for the Alternative Treatment Center land use in the Alexandria Township Land Use Ordinance. At the December Land Use Board meeting, the Board considered the question of whether to permit the Alternative Treatment Center (ATC) use in the Township and received extensive public comment on the question.

An ATC would consist of medicinal marijuana cultivation and manufacturing facilities and would not include the sale of medicinal marijuana products in Alexandria Township. No medicinal marijuana dispensary is being suggested as part of an ATC use.

At the December meeting the Board almost unanimously indicated that if the ATC use is to be permitted at all, it should only be permitted in the IC – Industrial Commercial District and the Board determined that it would review a draft ordinance amendment before deciding on a recommendation to the

Township Committee as to whether, if at all, the Alternative Treatment Center use should be permitted anywhere in the Township. With an eye toward prohibiting the ATC use throughout the Township, it was suggested to add the ATC use as a prohibited use to the Township's recently adopted ordinance that prohibits Recreational Marijuana uses throughout the Township (Ord. No. 2021-006, subsection 115-19.C., expressly prohibited uses).

As the Board considers whether and within which districts an ATC should be permitted, it is noted that there is a particular limitation to all future development of the IC District.

- The Township zoned the IC District for affordable inclusionary housing development for 111 (one-hundred eleven) affordable units to respond to the municipal constitutional obligation to provide zoning for its fair share of the affordable housing regional need.
- This zoning is a significant component of the Township's Court-approved affordable housing plan for the third round that earned the Township the Court's approval of its Fair Share Plan.
- IC inclusionary zoning was put in place because of the availability of centralized wastewater collection and disposal facilities in the two adjoining municipalities of Frenchtown and Milford.
- In accordance with the Court's order, all existing nonresidential uses in the IC district may continue and expand within existing lot lines; however, any change of use must comply with inclusionary affordable housing requirements and provide affordable housing.
- This precludes permitting the ATC use in the IC District unless the Township first gains Court approval to amend the Court-approved third round Fair Share Plan. This will necessarily require the Township to identify another location in the Township to provide zoning for 111 affordable units required in the Township's third round affordable housing obligation.
- In addition to the IC District, the Township zoned for substantial age-restricted inclusionary redevelopment of the Valley View home and related property on County Route 513. This is the other location in Alexandria Township to which it is reasonably possible to extend sewer collection facilities to support density required for affordable housing development.

State Law & Policy

An "Alternative Treatment Center" is defined in the law (N.J.A.C. 17:30A-1.2 Definitions), as follows:

"Alternative treatment center" or "ATC" means the permitted alternative treatment center authorized by endorsements described at N.J.A.C. 17:30A-7.1 to cultivate, manufacture, and/or dispense medicinal marijuana and related paraphernalia to registered qualifying patients in accordance with the provisions of the Act. This term includes the ATC's officers, directors, board members, and employees."

At N.J.A.C. 17:30A-10.7, the law identifies requirements for licensed ATC's to process and package medicinal marijuana at subsection 10.7 (a), as follows:

§ 17:30A-10.7 Processing and packaging of marijuana

(a) An ATC shall process marijuana in a safe and sanitary manner to protect registered qualifying patients from adulterated marijuana and shall process the dried leaves and flowers of the female marijuana plant only, which shall be:

1. Well cured and free of seeds and stems;
2. Free of dirt, sand, debris, or other foreign matter; and
3. Free of mold, rot or other fungus, or bacterial diseases.

At N.J.A.C. 17:30A-10.7, the law identifies medical marijuana products that may be packaged and manufactured at licensed ATC's at subsection 10.7 (e)), as follows

(e) An ATC shall package, manufacture, or dispense medicinal marijuana only in:

1. Dried form;
2. Oral lozenges;
3. Topical formulations; or
4. Oil formulations.

The ATC use has been deemed an agricultural use by the NJ Department of Agriculture.

In response to inquiries, the SADC in December [2011] provided clarification on medical marijuana as it pertains to preserved farms and right-to-farm protection. **The N.J. Department of Agriculture determined that medical marijuana is a crop based on New Jersey statutes.** Therefore, **medical marijuana may be cultivated and processed on preserved farms. However, because it is prohibited at the federal level,** the Natural Resources Conservation Service's position is that it will not permit medical marijuana on farms preserved with federal Farm and Ranch Lands Protection Program funding. Medical marijuana cannot be sold or distributed from a preserved farm because distribution is tightly controlled, +and dispensary sites will function not as farm markets but rather as medical treatment facilities. Medical marijuana growing operations are not eligible for right-to-farm protection because the Right to Farm Act requires conformance with all relevant federal laws. ...".

- As a crop, the medical marijuana use is considered agriculture by the NJ Department of Agriculture; however, a commercial farm is not protected under the Right-to-Farm act, irrespective of its farmland preservation status.
- The Alternative Treatment Center medical marijuana use is not permitted by federal law.

Land Use Considerations

Considerations and concerns raised during public comment in December included a range of potentially undesirable land uses, including, but not limited to: traffic, water consumption, on site wastewater discharges to groundwater, odor, security, light, energy consumption, storage of manufacturing chemicals and compounds, and proximity to residential land uses and land uses where children are present.

Banisch enumerated these issues from his January 17, 2022 report in greater detail.

Banisch reviewed the potential ordinance standards and discussed an option of adding the ATC's to the Alexandria Township code as a conditional use. He outlined the possible changes to the Use Regulations and changes with the addition of an ordinance. He advised how a conditional use would require a "d" variance which requires a more stringent review by the Board in order to approve an ATC.

Chair Rochelle asked for Board comment.

Pauch noted that during the last meeting there were many downsides expressed by the public. He asked why this was referred to the Land Use Board. **Deputy Mayor Pfefferle** advised one of the considerations was the potential for increased tax revenue and secondly, the ratable of the building from an assessor's standpoint. **Freedman** advised that she reviewed the IC Zone and found that there are approximately 25 lots, about half of which are owned by the NJDEP. Of the half that remain, almost all of them are in an AE Zone (floodplain) and/or are within a floodway which would make it difficult for development and site plans. She continued that only 2 of those lots are greater than 10 acres. From a land use perspective, she believes it is not hospitable for this type of a facility and many variances would be needed in order to comply. **Freedman** also noted that since our affordable housing agreement involves the IC Zone, our IC zone could include residential properties. If the Board feels the use should not be permitted in residential districts, this would be contradictory to the intent of allowing ATC's only in a strictly industrial zone. **Mayor Plumer** advised that the mayor of Frenchtown expressed concern over the facility being permitted in the IC zone, as this is close to their school and a densely populated area. **Tucker** expressed that due to the lack of upsides, and mostly downside, she would recommend expressly prohibiting any cannabis facilities in the Township of Alexandria.

Chair Rochelle entertained a motion to authorize the Board attorney to form written recommendation to the Township Committee advising that the Board recommends that any and all necessary action be taken by the Township Committee to formally and specifically prohibit alternative treatment centers and facilities from growing, cultivation, manufacturing, sale and resale of medicinal marijuana and uses permitted by all classes of recreational cannabis license, with the exception of Class VI cannabis delivery licenses, in all zones within the Township and as outlined in the memorandum of the Township Planner. **Kimsey** made that motion and **Canavan** seconded the motion. **Ayes: Chair Rochelle, Pauch, Freedman, Canavan, Tucker, Committeeman Kiernan, Deputy Mayor Pfefferle, Giannone and Kimsey. No Nays. Motion carried.**

Deputy Mayor Pfefferle explained that due to the state law permitting cannabis, the members of the Board and future members of the Board will need to proactively monitor this law as the state will be making changes. **Banisch** advised that one of the recommendations in his memo was to modify the A-1 Agricultural and Horticulture and to include a clause that “agriculture and horticulture shall include uses consistent with local, State and federal law.” **Banisch** advised that uses which are not permitted does not necessarily mean that it will never happen and explained the reasons under the Municipal Land Use Law which allows for a use variance as outlined in his report dated January 17, 2022.

Giannone addressed the public’s comments of the last several months regarding the Township’s lack of a fire department. He advised there are 5 volunteer fire companies covering Alexandria Township and all the volunteers go through the same training as a paid fire department so they can respond to any type of situation.

Approval of the Bills

A motion was made by **Freedman** and seconded by **Pauch** to approve the bills for the professionals of the Land Use Board. **Vote: Ayes: Chair Rochelle, Pauch, Freedman, Canavan, Tucker, Deputy Mayor Pfefferle, Committeeman Kiernan, Giannone, Kimsey. No Nays. Motion Carried.**

Public Comment

Marta Hernandez, 415 Mechlin Corner Rd, asked for clarification regarding the one exception to the motion. **Kaczynski** clarified that the Township cannot prohibit delivery of cannabis into the Township.

Chair Rochelle made a motion to adjourn and **Deputy Mayor Pfefferle** seconded the motion. **All Ayes. No Nays. Motion carried.**

Respectfully Submitted,

Leigh Gronau, Board Secretary